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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
MARK HANES,
Defendant.

No.: CR 05-00656 PJH

PARTIES' STIPULATION AND
[~~PROPOSED~~] ORDER EXCLUDING
TIME UNDER THE SPEEDY TRIAL ACT
FROM DECEMBER 14, 2005 UNTIL
JANUARY 11, 2006

The parties stipulate and agree, and the Court finds and holds, as follows:

1. The parties appeared in this Court on the above-captioned matter on December 14, 2005.

2. At that appearance, upon consideration of the defendant's motion to continue, the Court granted the motion, vacated the trial date of February 6, 2006, and set the matter for a status hearing on January 11, 2006. Defense counsel stated that he was recently assigned to the case, is in the midst of interviewing witnesses and investigating a factual and legal issue in the case, and will be unavailable during the holiday week. Accordingly, the parties moved that the time period from December 14, 2005 until January 11, 2006 be excluded from the calculation of time under the Speedy Trial Act based upon continuity of counsel and effective preparation of counsel. *See* 18 U.S.C. § 3161(h)(8)(B).

3. In light of the foregoing facts, the failure to grant the requested exclusion would unreasonably deny counsel for the defense the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would unreasonably deny the defendant continuity of counsel. See 18 U.S.C. § 3161(h)(8)(A), (B)(iv). The ends of justice would be served by the Court excluding the proposed time period. These ends outweigh the best interest of the public and the defendant in a speedy trial. See id. § 3161(h)(8)(A).

4. For the reasons stated, the time period from December 14, 2005 through January 11, 2006 shall be excluded from the calculation of time under the Speedy Trial Act.

SO STIPULATED.

DATED: 12/16/05

Respectfully Submitted,

/s/
MICHELLE MORGAN-KELLY
Assistant United States Attorney

DATED: 12/16/05

/s/
JEROME MATTHEWS
Counsel for Defendant Mark Hanes

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 12/30/05


HON. PHYLLIS J. HAMILTON
United States District Court Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the office of the United States Attorney, Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned certifies that she caused copies of

PARTIES' STIPULATION AND [PROPOSED] ORDER EXCLUDING TIME UNDER THE SPEEDY TRIAL ACT FROM DECEMBER 14, 2005 UNTIL JANUARY 11, 2006

in the case of **UNITED STATES V. MARK HANES, CR 05-00656 PJH** to be served on the parties in this action, by placing a true copy thereof in a sealed envelope, addressed as follows which is the last known address:

**JEROME MATTHEWS
FEDERAL PUBLIC DEFENDER
555 12TH STREET, SUITE 650
OAKLAND, CA 94607
Fax No: 510-637-3507**

____ (By Personal Service), I caused such envelope to be delivered by hand to the person or offices of each addressee(s) above.

 x (By Facsimile), I caused each such document to be sent by Facsimile to the person or offices of each addressee(s) above.

____ (By Mail), I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Francisco, California.

____ (By Fed Ex), I caused each such envelope to be delivered by FED EX to the address listed above.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 16, 2005

/s/
RAWATY YIM
United States Attorney's Office